

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Friday, June 22, 2018
Minutes**

- 1. Call to order. 00:00:00**

Chairman Lindebak called the meeting to order at 5:17p.m.

- 2. Roll call. 00:00:04**

Planning Commission members in attendance: Chairman Brian Lindebak, Lynn Heath, Gary Israel, William Schnauber and Erik Pedersen. Alex Zarchan arrived at 5:33p.m. Member Stephanie Gillespie was absent.

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter and Stormwater/GIS/Planning Technician Lance Onstott.

A/V: WAV Services

- 3. Approval of the minutes of the May 15, 2018 meeting. 00:00:17**

A motion was made by Gary Israel, seconded by Lynn Heath to approve the minutes of the May 15, 2018 meeting. Motion carried 4/0/1. William Schnauber abstained.

- 4. Communications 00:01:15**
A. Committee and Staff Report.
B. Potential Residential Development Report.

Les Mangus reported that Prairie Creek 3rd Addition is ready for building, and six building permit applications have been submitted in the last week.

- 5. Z-2018-02- Reconsideration of an application for a change of zoning district classification from the present R-1 Single-Family Residential District to the R-3 Multiple-Family Residential District on property located at 610 S. Ruth, Andover, Kansas. 00:01:50**

Chairman Lindebak reported that the City Council has returned the case for clarification of the findings and factors that led to the motion to recommend disapproval. More specifically, the discussion at the City Council centered around question 17: “By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?” This question is intended to

summarize the findings in the preceding questions to weigh the hardship to the applicant against the effects to the general public if the change is denied. The “No” answer provided in this case would mean that the gain to the public would not outweigh the loss to the applicant. The language of the question has been clarified in the draft UDM to the following: “How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety, and welfare, if there is a change from the current zone to the requested zone?”

Chairman Lindebak indicated that the proceedings on the case do not require reopening the public hearing unless the Planning Commission feels that there is new information that might have an effect on the recommendation.

Chairman Lindebak asked the audience to indicate by raising their hand if they were in attendance to support or oppose the application.

Chairman Lindebak asked the Commission if anyone was opposed to not reopening the public hearing on the case, and instead focus discussion on question 17 of the factors and findings. No opposition was voiced.

City Administrator Mark Detter advised the Commission that there is case information that might have been left out during the first meeting or that possibly needs reiteration. Mr. Detter stated that the applicant property is planned for multi-family residential in the adopted Comprehensive Plan and Corridor Study. It is also included in the Neighborhood Revitalization Plan, which is asking for investment in this area. Mr. Detter acknowledged the previous objections to this case included increased activity and street concerns. Mr. Detter advised that the City at-large has options to perform some maintenance that can alleviate some of the concerns of current residents and Commissioners. Mr. Detter asked Les Mangus if it was possible to limit the number of structures on the property if it is rezoned to multi-family?

Les Mangus answered that if the Commission wanted to add any conditions to the zoning it would have to be done by protective overlay.

Mark Detter asked to clarify whether these conditions could include the number of units allowed on the property.

Les Mangus confirmed the number of units could be a condition.

Chairman Lindebak indicated that he has some concerns regarding the application. He invited other Commissioners to state their concerns.

Lynn Heath asked whether any variances were required on this application if approved.

Les Mangus responded that none were required. The lot is a little over 20,000 square feet, and at 5,000 square feet per dwelling unit, the proposed 4 units would fit within the lot areas imposed by the Zoning Regulations.

Chairman Lindebak stated that it is a small tract of land, and if they were looking at consolidating multiple small tracts of land and rezoning to R-3 it would make more sense. The configuration, in order to allow access, would require a private street, meaning the structures would be perpendicular to the current single-family homes existing on the street. He acknowledged that the current Comprehensive Plan and US 54-400 Corridor Study shows the area as multi-family, he believes there needs to be some consolidation of other tracts.

Gary Israel acknowledged the Comprehensive Plan, but questioned whether the time and nature of the application are appropriate. He stated the rest of the neighborhood is currently single-family homes. He has concerns with increased traffic on the current gravel road. He asked whether the residents would have any financial requirements to improve the road.

Mark Detter answered that it depends on the level of improvement. Options include millings from other projects. He stated that if there are conditions on the number of dwellings allowed, the potential increase in traffic would be negligible. He stated that he was unaware that the Comprehensive Plan, or the discussion during the development of it, called for any consolidation of tracts in the area before it was advisable to start approving rezoning applications. He also stated that he assumes the applicant used the information included in the plan when making the decision to invest in the property. He understands the concern regarding four dwelling units, but believes an overlay to restrict the number of units may be a compromise.

Erik Pedersen stated that he did spend time looking at the property, and when he was onsite he did notice the dust on the road. He didn't know how long it would take for the multiple owners of each individual property to get to the point where consolidated rezoning was possible, which begs the question, "if not now than when". Being open minded about the application is prudent.

Gary Israel stated that residents purchased their properties with the intent of living in a single-family neighborhood. He questioned whether now is the right time for multi-family.

Chairman Lindebak indicated that according to the minutes from the original hearing that the basis for the Commission's initial recommendation were numbers 6, 11, 12, 15 and 16 of the factors and findings included on the rezoning report. He asked the Commission to review those items. No changes were made.

Chairman Lindebak stated that for the reasons outlined in 6, 11, 12, 15 and 16 he believes the Commission is summarizing that the application for rezoning is not appropriately timed for this specific area.

Mark Detter asked whether the Commission wanted to change their answer to number 17 of the factors and findings included in the rezoning report.

Les Mangus advised that number 17 should not be a 'YES'/'NO' answer. The City Council is looking for the Commission to summarize using this question.

Chairman Lindebak stated that he believes the relative gain to the public outweighs the loss to the applicant by not approving.

William Schnauber asked to confirm whether the restriction of units was possible.

Les Mangus confirmed the Commission has the power to create a protective overlay with no further process required.

Gary Israel asked if questions to the public and applicant were allowed.

Chairman Lindebak reopened the public hearing.

Jim Ackerman, applicant and property owner, was present.

Gary Israel asked the applicant to describe the two options presented.

Mr. Ackerman presented an option with two duplexes on the property and another with one duplex and a large storage building. The storage building would be used for personal storage.

Gary Israel asked if the applicant would be willing to be restricted to one duplex.

Mr. Ackerman said he would be willing to do that. He added that the rent for the units would be \$1,200 per month, which should bring in certain types of tenants. He also does not believe the addition of three additional dwellings would substantially add to traffic or make the neighborhood less safe. He would like to explore the possibility of paving the street if dust is such a concern.

Mark Detter asked whether Mr. Ackerman has evaluated the possibility of building a single-family home on the site.

Mr. Ackerman said he would prioritize other projects in other cities and see what happens long-term within the City of Andover, but that he would anticipate the lot being vacant until that time. He estimates the proposed duplex would be valued at approximately \$200,000. Lease agreements would have parking restrictions to prevent on-street parking.

Gary Israel asked the applicant if he has done any research into the number of duplexes within Andover?

Mr. Ackerman responded that a banker and a couple real estate agents advised him that Andover was about to be overbuilt with duplexes.

Gary Israel asked staff the same question.

Les Mangus answered that they have no hard vacancy rates, but that experience communicates that both rental and ownership listings do not stay on the market long.

Alex Zarchan asked about fencing and access to the proposed storage building.

Mr. Ackerman responded that he would anticipate putting up a fence.

Mark Detter asked if screening could be included as a condition.

Les Mangus responded that the proposed structure is approximately 1,800 square feet which exceeds the Zoning Regulations. This would require a variance, and screening could be a condition included in the variance.

Mr. Ackerman asked what the maximum size building would be allowed without a variance.

Les Mangus responded that up to 200 square feet is the maximum allowed.

Gary Israel asked the public if they would be opposed to one duplex being built on the property.

Mike Payne, 615 S. Ruth Ave., responded that they purchased their properties because they were all single-family residential properties, and they wish to see it remain that way. They endure the dusty roads, but still have concerns regarding parking. They are working to improve their neighborhood, and feel any multi-family development would be detrimental to current improvements.

Linda Ferris, 642 S. Ruth Ave., stated that her concern was that there was no place for the kids to play besides the driveway and the street resulting in safety and on-street parking concerns.

Tom Spear, 1003 W. Clyde St., reported problems with parking with the existing duplexes north of the applicant property. He also believes recent investments in his property would be devalued if another duplex was allowed.

Mark Detter advised that the Commission refrain from using renter-occupied vs. owner-occupied in their decision-making process and to stick to compatibility of housing types.

Linda Ferris acknowledged that the dust from the roads isn't her main objection to the application, she just prefers to see a single-family residence on the property.

Mr. Ackerman responded that the proposal with one duplex would allow for ample yard-space for children to play without any complications to parking or safety.

Chairman Lindebak asked the Commission to confirm their decision to change their original response to question 17 of the factors and findings included with the rezoning report from 'NO' to 'YES'.

Gary Israel, Lynn Heath, William Schnauber, Erik Pedersen and Alex Zarchan all agreed to change the Commission's response to 'YES' indicating that the community benefit outweighed the applicant's hardship if recommended to disapprove.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: Z-2018-02

APPLICANT/AGENT: Eagle Investments, LLC / Jim Ackerman

REQUEST: Proposed change of zoning district classification from the present R-1 Single-Family Residential District to the R-3 Multiple-Family Residential District.

CASE HISTORY:

LOCATION: 610 S. Ruth, Andover, Kansas

SITE SIZE: ±.55 acres

PROPOSED USE: Allow development of two duplex units.

ADJACENT ZONING AND EXISTING LAND USE:

- North: R-1 Single-Family Residential District
- South: R-1 Single-Family Residential District
- East: A-1 Agricultural Transition District
- West: R-1 Single-Family Residential District

Background Information:

The subject property is an existing single family dwelling on a large lot on a gravel street. The applicant desires to demolish the existing dwelling and build two two-family dwellings.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

YES NO

X STAFF:
PLANNING:
COUNCIL:

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? (See Adjacent Zoning on page 1 of 4)

YES NO

X STAFF:
PLANNING:
COUNCIL:

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?

YES NO

STAFF: Public water and sewer are available. The gravel street is in poor condition because of the traffic volume and poor drainage.

X PLANNING:
COUNCIL:

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO

X STAFF: Dedication of 32' half street right of way in lieu of platting.
X PLANNING:
COUNCIL:

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

YES NO

STAFF: None in the area.
X PLANNING:
COUNCIL:

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO

STAFF: N.A.

PLANNING: N.A.

COUNCIL:

11. Is the subject property suitable for the current zoning to which it has been restricted?

YES NO

X STAFF:

X PLANNING:

COUNCIL:

12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF: Increased activity and traffic.

PLANNING: Same.

COUNCIL:

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

X STAFF:

X PLANNING:

COUNCIL:

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X STAFF: The Comp Plan supports a variety of housing choices.

X PLANNING:

COUNCIL:

15. What is the nature of the support or opposition to the request?

YES NO

STAFF: Adjacent neighbors are concerned with increased activity, traffic, and parking.

PLANNING: Activity, traffic, parking and non-conformity with remainder of neighborhood's current zoning.

COUNCIL:

16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES NO

STAFF: Staff is concerned with the burden created by the four dwelling units of the 30-40 traffic trips on the gravel road.

PLANNING: Same.

COUNCIL:

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

YES NO

STAFF:

X PLANNING: The relative gain to the public outweighs the loss to the applicant by not approving.

COUNCIL:

*Having considered the evidence at the May meeting and tonight's hearing and the factors to evaluate the rezoning application, I, Gary Israel, move that we recommend to the Governing Body that Case No. Z-2018-02 be **disapproved** to change the zoning district classification from the R-1 Single-Family Residential District to the R-3 Multiple-Family Residential District based on the findings 6, 11, 12, 15, 16 and 17 of the Planning Commission as recorded in the summary of this hearing. Based on 17, we feel that the gain to the public health, safety and general welfare is of benefit to the current residential zoning and to the residents in the area to keep the property as R-1 and it's not the potential loss in value or hardship to the applicant because he still owns the property and has other options for the property as a R-1 zoned location. Motion seconded by Lynn Heath. Motion carried 6/0.*

6. Member items.

00:00:00

Chairman Lindebak stated that he has been enjoying the concerts at the Capitol Federal Amphitheater in Central Park and encouraged attendance.

7. Adjourn.

00:00:00

A motion was made by Lynn Heath, seconded by Gary Israel, to adjourn at 6:14 p.m. Motion carried 6/0.

Respectfully Submitted by,

Lance A. Onstott
Stormwater/GIS/Planning Technician

Approved this 21st day of August, 2018 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.